

Please also see Federal Domestic Quarantine 301.92 for regulations on the interstate movement of regulated articles.

### 3700. OAK MORTALITY DISEASE CONTROL

#### State Miscellaneous Ruling

Restrictions are hereby established against this pest, its hosts, and possible carriers.

(a) **Pest.** A fungus, *Phytophthora ramorum*, which causes oak mortality disease (sudden oak death).

(b) **Regulated Area.** The regulated area for the pest is:

(1) The entire counties of Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma.

(c) **Articles and Commodities Covered.** The following are declared to be hosts or potential carriers of the pest:

**(1) Plants and plant parts (except acorns or seed) of:**

*Acer macrophyllum* (bigleaf maple)  
***Acer pseudoplatanus* (planetree maple)**  
*Adiantum aleuticum* (Western maidenhair fern)  
*Adiantum jordanii* (California maidenhair fern)  
*Aesculus californica* (California buckeye)  
***Aesculus hippocastanum* (horse chestnut)**  
*Arbutus menziesii* (madrone)  
*Arctostaphylos manzanita* (manzanita)  
*Calluna vulgaris* (Scotch heather)  
*Fagus sylvatica* (European beech)  
*Frangula californica* (= *Rhamnus californica*)  
 (California coffeeberry)  
*Frangula purshiana* (= *Rhamnus purshiana*)  
 (cascara)  
*Griselinia littoralis* (Griselinia)  
*Heteromeles arbutifolia* (toyon or Christmas berry)  
*Kalmia latifolia* (mountain laurel)  
***Laurus nobilis* (bay laurel)**  
*Lithocarpus densiflorus* (tanoak)  
*Lonicera hispidula* (California honeysuckle)  
*Maianthemum racemosum* (= *Smilacina racemosa*, false Solomon's seal)  
***Michelia doltsopa* (Michelia)**  
*Parrotia persica* (Persian ironwood)  
*Photinia fraseri* (red tip or Fraser's photinia)  
*Pieris formosa* [(and *P. formosa* x *P. japonica* and all hybrids of *P. formosa*) (Himalaya andromeda)]  
*Quercus agrifolia* (coast live oak)  
*Quercus cerris* (European turkey oak)  
*Quercus kelloggii* (California black oak)  
*Quercus parvula* var. *shrevei* and all nursery grown *Q. parvula* (Shreve's oak)  
*Rhododendron* species (azaleas and rhododendrons)  
*Salix caprea* (goat willow)  
*Trientalis latifolia* (Western star flower)  
*Umbellularia californica* (California bay laurel)

*Vaccinium ovatum* (huckleberry)  
*Viburnum* spp.;

(2) Basal trunk/burl sprouts, small branches (less than one inch in diameter), and leaves (needles) of coast redwood (*Sequoia sempervirens*) and Douglas-fir (*Pseudotsuga menziesii* var. *menziesii* and all nursery grown *P. menziesii*);

(3) Small branches (less than one inch in diameter) and leaves of canyon live oak (*Quercus chrysolepis*);

(4) Leaves of camellias (*Camellia* spp.), European ash (*Fraxinus excelsior*), lilac (*Syringa vulgaris*) and wood rose (*Rosa gymnocarpa*);

(5) Leaves and stems of mountain andromeda (*Pieris floribunda* and *P. floribunda* x *P. japonica* and all hybrids of *P. floribunda*),

Japanese pieris (*Pieris japonica* and all hybrids of *P. japonica*), and witch hazel (*Hamamelis virginiana*).

(6) Plants and stems of laurustinus (*Viburnum tinus*);

(7) Leaves and shoots of sweet chestnut (*Castanea sativa*);

(8) Buds and small branches (less than one inch in diameter) and leaves of European yew (*Taxus baccata*);

(9) The bole (bark and wood) of Southern red oak (*Quercus falcata*);

(10) Leaves and sprouts of the Holm oak (*Quercus ilex*);

(11) Associated articles (nursery stock) of the following plants:

*Abies concolor* (white fir)  
*Abies grandis* (grand fir)  
*Abies magnifica* (red fir)  
***Acer circinatum* (vine maple)**  
*Acer davidii* (striped bark maple)  
*Acer laevigatum* (evergreen maple)  
*Arbutus unedo* (strawberry tree)  
***Arctostaphylos columbiana* (manzanita)**  
*Ardisia japonica* (Ardisia)  
*Calycanthus occidentalis* (spicebush)  
***Castanopsis orthacantha* (Castanopsis)**  
*Ceanothus thyrsiflorus* (blueblossom)  
*Cinnamomum camphora* (camphor tree)  
*Clintonia andrewsiana* (Andrew's clintonia bead lily)  
***Cornus kousa* x *Cornus capitata* (Cornus Norman Haddon)**  
*Corylus cornuta* (California hazelnut)  
***Distylium myricoides* (myrtle-leaved Distylium)**  
*Drimys winteri* (winter's bark)  
*Dryopteris arguta* (California wood fern)  
***Eucalyptus haemastoma* (scribbly gum)**  
*Euonymus kiautschovicus* (spreading euonymus)  
*Fraxinus latifolia* (Oregon ash)  
*Gaultheria shallon* (salal, Oregon wintergreen)

*Hamamelis x intermedia* [(*H. mollis* and *H. japonica*) (hybrid witchhazel)]

*Hamamelis mollis* (Chinese witch hazel)

***Ilex purpurea* (Oriental holly)**

*Kalmia angustifolia* (sheep laurel)

*Leucothoe axillaris* (fetterbush, dog hobble)

*Leucothoe fontanesiana* (drooping leucothoe)

***Loropetalum chinense* (Loropetalum)**

*Magnolia grandiflora* (southern magnolia)

*Magnolia stellata* (star magnolia)

*Magnolia x loebneri* (Loebner magnolia)

*Magnolia x soulangeana* (saucer magnolia)

***Manglietia insignis* (red lotus tree)**

*Michelia maudiae* (Michelia)

*Michelia wilsonii* (Michelia)

*Nerium oleander* (oleander)

*Nothofagus obliqua* (Roble beech)

*Osmanthus decorus* [(=*Phillyrea decora*; =*P. vilmoriniana*) (Osmanthus)]

*Osmanthus fragrans* (sweet olive)

*Osmanthus heterophyllus* (holly olive)

*Osmorhiza berteroi* (sweet Cicely)

***Parakmeria lotungensis* (eastern joy lotus tree)**

*Pittosporum undulatum* (Victorian box)

*Prunus lusitanica* (Portuguese laurel cherry)

*Pyracantha koidzumii* (Formosa firethorn)

*Quercus acuta* (Japanese evergreen oak)

*Quercus petraea* (sessile oak)

*Quercus rubra* (northern red oak)

***Rosa* "Meidiland" (hybrid rose)**

***Rosa* "Royal Bonica" (hybrid rose)**

***Rosa* "Sevillana" (hybrid rose)**

*Rosa rugosa* (rugosa rose)

*Rubus spectabilis* (salmonberry)

*Taxus brevifolia* (Pacific yew)

*Taxus x media* (yew)

*Torreya californica* (California nutmeg)

*Toxicodendron diversilobum* (poison oak)

*Vancouveria planipetala* (redwood ivy)

(12) Unprocessed wood and wood products (except when completely free of bark) and plant products of the plants in paragraph (c)(1), including but not limited to bark chips, mulch, firewood, and dried or preserved wreaths;

(13) Any other product, article or means of conveyance when it is determined by the secretary, based upon generally accepted scientific principles, that it presents a risk of spreading the pest because it is a host or potential carrier of the pest.

#### (d) Restrictions.

(1) Articles and commodities covered in subsection (c) are prohibited movement from the regulated area except as provided in paragraph (A), (B) or (C) below:

(A) If accompanied by a certificate issued by an authorized agricultural official affirming that the articles and commodities have been:

1. produced and maintained in an area which has been surveyed by an authorized agricultural official in a manner approved, based upon generally accepted scientific

principles, by the secretary to detect the pest and the area has been found to be free of the pest; or,

2. grown, produced, manufactured, stored, or handled in a manner approved by the secretary, based upon generally accepted scientific principles, by the secretary to prevent infestation by the pest; or,
3. tested in a manner approved, based upon generally accepted scientific principles, by the secretary to detect the pest and found to be free of the pest.

(B) If the article or commodity does not meet the conditions in paragraph (d)(1)(A), it may nevertheless be moved if a permit is issued by an authorized agricultural official specifying the required containment conditions necessary to prevent potential spread of the pest; the article or commodity covered; the destination; and the handling, utilization, or processing which is authorized by the official and the conditions under which this shall be conducted. If the issuance of a permit is denied, an appeal may be filed with the department as provided in subsection (e).

(C) If the article or commodity is being moved from outside the regulated area and is being moved through the regulated area by direct route and without delay.

(2) At the retail level, articles and commodities covered are prohibited movement from the regulated area except when the person in possession has proof of purchase showing the commodity was purchased from a seller who is in compliance with paragraph (d)(1)(A).

#### (e) Appeal/Hearing Procedures.

(1) An appeal pursuant to paragraph (d)(1)(B) may be filed with the department within seven (7) calendar days of the date of denial of the permit. A hearing shall be conducted within 48 hours of an appeal that is timely filed. An appeal that is not timely filed shall be denied and no hearing shall be conducted in connection therewith.

(2) Hearings shall be conducted pursuant to Chapter 4.5 (commencing with section 11400) of Division 3 of Title 2 of the Government Code and these regulations.

(3) Hearings shall be presided over and conducted by a hearing officer designated by the secretary.

(4) Hearings may be conducted by telephone, at the discretion of the secretary.

(5) The decision of the hearing officer shall be in writing. The decision shall be in minute order form, containing only a brief statement of the conclusion and findings to support the conclusion. It may be handwritten.

(6) The decision shall be issued within 24 hours after the conclusion of the hearing and may be issued orally at the conclusion of the hearing subject to written confirmation.

(7) The written decision shall be served on the appellant or designated representative either by personal service or, if available, by facsimile transmission.

(8) The hearing officer's decision shall be final and not appealable to the secretary or any other officer of the Department.

(9) The appellant may seek judicial review of the hearing officer's decision by filing a petition for a writ of administrative mandamus in the appropriate court pursuant to Code of Civil Procedure section 1084 *et seq.*

(10) Hearings shall be recorded by audiotape.

**Note:** Authority: Sections 407, 5321 and 5322, Food and Agricultural Code.

**Reference:** Sections 24.5, 5321, and 5322, Food and Agricultural Code; Sections 11425.50 and 11440.10, Government Code; Section 1084 *et seq.*, Code of Civil Procedure.

**ADDITIONAL HOSTS**

APPENDIX 1

09/03/04

**At this time, there are no additional hosts.**

**ADDITIONAL INFESTED AREAS**

APPENDIX 2

09/03/04

**At this time, there are no additional infested areas.**